

James R. Ludlow. By Richard Vaux.

(Read before the American Philosophical Society, January 7, 1887.)

The American Philosophical Society in recording its tributes to the memory of its deceased members is sensibly impressed by the reflection that the propriety of their election to its membership had been signally confirmed by the learning and attainments manifested in their life-work.

Knowledge is advancing to the circumference which bounds the human mind. Science is laboriously engaged in finding out the reason of things. Philosophy in the library is exercising its capacities, and elsewhere testing its ability to demonstrate them. Out of these sources our Society is filled with vital force. Those who augment and increase its value are within the compass of our commendation.

The preparation of this paper is the practical exemplification of this axiom. It is dedicated to the memory of the HON. JAMES R. LUDLOW.

On the 3d of May, 1825, in the City of Albany, in the State of New York, James R. Ludlow was born. His father, the Rev. Dr. John Ludlow, was a minister of the Old Dutch Reformed Church. This venerable Society had an historical character. Its influence in the earlier days of New York was marked, and much yet remains. The Dutch settlers of that Province were earnest, sincere, sluggish, but patriotic people. The Patroons were noted men in their time. The Van Rensselaer Manor was historical. The Patroons, Van Rensselaer, even to a late period were esteemed and respected in social circles.

The anti-rent excitement half a century ago, was evolved out of the relations between these manors and the tenants.

The Rev. Dr. Ludlow was an educated, cultivated gentleman. He was professor of languages in the Theological Department of the New Brunswick, New Jersey, School of the Dutch Reformed Church.

In the year 1834 Dr. Ludlow came to Philadelphia and was elected Provost of the University of Pennsylvania, in which post he served for nearly twenty years.

When Dr. Ludlow came to this city, his son James entered the University of Pennsylvania and graduated with distinction in July, 1843.

He then became a student of law with the Hon. Wm. M. Meredith. It may not be out of place to say of Mr. Meredith that he was one of the ablest lawyers of this country. Well read in all branches of learning, with a brilliant wit, his fame was the growth of inherent ability and marvelous culture. Without industry, he absorbed knowledge. His reading was general, his memory phenomenal.

On the admission of James R. Ludlow to the bar on July 24, 1846, he entered on the practice of his profession in this city. Earnest, faithful, industrious, he began to establish a professional character that promised success.

In 1850 he was appointed Assistant District Attorney of the United

States and earned high repute for his conduct of some of the Government cases. He learned rapidly the science of the law, and mastered its practical details.

In 1856 he was named as a candidate for the District Attorneyship of Philadelphia. His reputation had grown, his professional standing was assured.

In 1857 he was nominated for Judge of the Court of Common Pleas of Philadelphia County, and elected, and in November, 1857, took his seat on the Bench. His term of ten years expired in 1867, and he was re-elected.

By the Constitution of the State of Pennsylvania, which was amended in the year 1873, the Courts of the County of Philadelphia were re-organized. By this organic law, four Courts of Common Pleas were established. Each had a President Judge and two Associates. Judge Ludlow became President Judge of Court of Common Pleas, No. 3.

In 1877 Judge Ludlow was again elected without opposition. He held that position until his death. His judicial life began in 1857, and ended, by his death, in 1886. Thirty years of judicial labor was the training he received. He gained the respect and confidence of his fellow-citizens. They appreciated his honesty, impartiality, his courage and his learning.

As a Judge, his reputation was substantial. In the law and equity sides of the Court he was admittedly a safe and conservative administrator of the high trust conferred on him. His conscientiousness was proverbial. He possessed and developed the highest courage in the impartiality with which he adjudged the questions he was called upon to determine. It may be said he died the victim of continuous, conscientious labors. He investigated and examined, and came to his conclusions after patient study of the law involved in the decisions of those cases, the importance of which made severe demands on his time. He took nothing for granted. He believed his duty required his best efforts, and was not satisfied that errors inconsiderately made might be possibly corrected in a court of review.

It may be said of Judge Ludlow, that in dealing with the science of the criminal law he became an authority in this country. His tastes led him to study physiology and psychology. To facilitate his labor he attended the lectures in the medical school of the University of Pennsylvania. He therefore became well informed in medical science. In administering the criminal law, his opinions were regarded as a settlement of those principles in which a knowledge of these sciences was necessarily involved.

It became a professional fashion to plead insanity to indictments for murder. The first tentative efforts to introduce this defence seem to have been so successful as to encourage its adoption. The Courts, leaning to the doubt as to the mental condition of the accused when put in issue on a trial, created a demand for medical evidence in support of this plea.

It became important to the administration of justice that a rigid enforcement of the law should be secured.

To relieve one guilty of murder from the just penalty of his crime, by the interposition of a scheme to confess the act and avoid the conviction, by the assertion that the accused was insane, needed to be subjected to the test of scientific investigation. Medical experts who look up the specialty of mind diseases made of it a sort of avocation.

There ought to be a significant distinction between an "expert" and a "witness." This distinction is not always made in these trials. An "expert" is almost always called as a witness, while his function as an "expert" is to give merely professional opinions. Many of these experts, so called, were too ignorant to do more than cast suspicion on the value of any medical testimony. It was not long before the intelligent of both professions became disgusted with this expert system of building up a theory of want of mental responsibility for acts committed.

Judge Ludlow was one of the first of the Judges in Philadelphia to defeat the purpose for the use of these medical experts.

In the Commonwealth vs. Sayres, he laid down the principles which should govern the investigation of insanity as a plea against a conviction of murder. The Supreme Court of Pennsylvania confirmed Judge Ludlow's law in this case.

His opinion in this case became recognized authority. The Insane Asylum at Utica, New York, published that opinion as canon law on this subject.

The case of the Commonwealth vs. Taylor, 1884, was perhaps the most important of all the cases which were subjected to judicial determination. To those best informed as to the character of the prisoner, there was no doubt of his entire responsibility for the crime of murder of which he was convicted and afterwards hanged.

The insanity plea was fully discussed, and the Supreme Court on appeal finally settled the law on this subject in the Commonwealth, by endorsing Judge Ludlow's opinion in Taylor's case. From that opinion we make the following extract as indicating his views and asserting the law as now settled :

"I do not intend to review the law as settled by our Supreme Court in Sayres' Case, 7 Norris, 291, upon the subject of insanity.

"I tried that cause, and the charge then delivered was before the appellate tribunal. On the trial of this case I quoted from that charge freely, and added the words contained at the end of the ninth reason for a new trial of record.

"My object was to draw a line of distinction between what may be called *legal* and *medical* insanity, between acts which an eccentric, angry, jealous, sentimental and revengeful man may do, when medically and scientifically, in one sense, insane, and when by every *legal* test that man is a responsible being, and for the protection of society must be held so to be.

"It is quite possible for one to commit a violent act, when by reason of

very many causes, his brain is not in a healthy condition, is in fact diseased. He knows the circumstances by which he is surrounded, is perfectly able to attend to his own affairs, distinguishes right from wrong, and yet by reason of an unhealthy brain, is abnormally swayed by passion, sentiment and emotion, and in a fit of anger, jealousy or revenge, kills another.

“When an expert, in answer to the question

“‘Suppose a case to arise, in which the diseased condition of the brain produces jealousy, anger, or revenge; is that man insane?’ Answered, Yes. I then remarked: ‘That is the sort of insanity the Supreme Court declares shall make a man responsible.’

“That opinion is yet entertained. If the expert had answered, ‘Yes, if satisfied that this diseased or unsound state of mind existed to such a degree, that although he (the prisoner) could distinguish between right and wrong, yet, with reference to the act in question, his reason, conscience and judgment were so perverted as to render the commission of the act in question a duty of overwhelming necessity,’ we could then understand the difference between an opinion based upon scientific metaphysics, under cover of which every wicked man may be declared to be insane, and a clear cut, well defined rule of law, which requires every man to be a responsible agent, and adopts rules to test that responsibility, which every one can understand and apply, and which will in practice rarely, if ever, consign to the gallows a really insane man.

“It is hardly probable in this enlightened age that one whose insanity is difficult of detection, and whose case may therefore be real, as well as mysterious, will ever be unjustly punished. When courts and juries deal with cases of insanity, they can and should only be governed by plain principles, readily applicable to facts as proved, and not indulge in impracticable theories, often subtle, and to the ordinary mind incomprehensible, which lead to the acquittal of the guilty, and to the final destruction of that security which society demands.”

It is fortunate for medical and legal science, that a check was imposed on the vagaries of experts on mental disease.

The closest and best informed student of mental phenomena must know that it is impossible to establish and formulate any certain rules to make a reliable diagnosis as to special mental maladies. Abnormal mental conditions develop themselves to the recognition of educated and experienced observation. Inherited traits, latent physical causes, morbid moral alienations may express themselves in forms which indicate the existence of some irrational mental conditions. In such cases the theorist accepts a conclusion of insanity. But under which of the terms used to describe this disease it can be classified, is only to be known by the results of practical personal observation of those familiar from long experience with the various characteristics of these maladies. A theoretic opinion is of little value. Mental disturbance may exist, and become apparent under certain forms, to the expert, when if by long and close ob-

servation of those familiar with mental disease the responsibility of the individual for acts cannot be doubted. When, therefore, it becomes a question of the responsibility of a person for his acts, a theory is too often misleading.

Judge Ludlow, in his opinion in Taylor's case, has drawn the distinction with the force of scientific truth when he says, Scientific metaphysics, as applied to mind disease, may suggest medical insanity. Whatever medical insanity may be, it is now clearly determined to be the law in Pennsylvania that insanity to be a defence in murder must be determined by legal principles. Responsibility for crime is now to be determined by legal tests. Medical insanity resting on scientific metaphysics may be accepted as authority by medical experts, but before the law, legal insanity can only be recognized.

This enlightened and learned Judge, worn out by judicial labor, ended his days on the 20th day of September, 1886, in the 62d year of his age, with a high reputation, gained and earned in the thirty years of devotion to the conscientious discharge of his high trust.

It is due to the character of James R. Ludlow, that the American Philosophical Society should enroll his name among those of its members who worthily obtained and richly merited by his life-work the honorable distinction of its membership.

CONTRIBUTIONS FROM THE CHEMICAL LABORATORY OF THE
UNIVERSITY OF PENNSYLVANIA.

No. XXIX.

CONTRIBUTIONS TO MINERALOGY.

BY F. A. GENTH.

(With one phototype plate and three wood-cuts.)

(*Read before the American Philosophical Society, March 18th, 1887.*)

I. ON THE OCCURRENCE OF TIN ORES IN MEXICO.

The ores which are the subject of the following investigation were received in January, 1885, from Mr. John L. Kleinschmidt of San Miguel del Mesquital in the State of Zacatecas, Mexico,* to whom I am greatly indebted for this gift, and for highly interesting observations, regarding

* I have just learned from Mr. Kleinschmidt that he has returned to Hillsboro', Jefferson Co., Mo.